

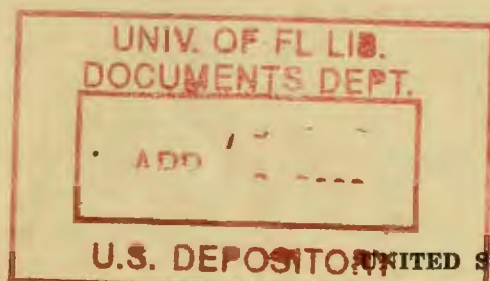
NATIONAL RECOVERY ADMINISTRATION

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SUPPLEMENTARY  
CODE OF FAIR COMPETITION  
FOR THE  
AUTOMOBILE  
HOT-WATER HEATER  
MANUFACTURING INDUSTRY

(A Product Group of the Accessories Division of the Automotive Parts  
and Equipment Manufacturing Industry)

AS APPROVED ON JUNE 25, 1934

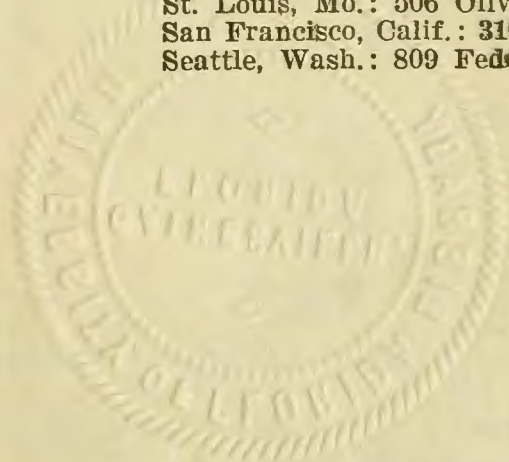


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Approved Code No. 105—Supplement No. 1

## SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

### AUTOMOBILE HOT WATER HEATER MANUFACTURING INDUSTRY

As Approved on June 25, 1934

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#### ORDER

#### SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE AUTOMOBILE HOT WATER HEATER MANUFACTURING INDUSTRY

#### A PRODUCT GROUP OF THE ACCESSORIES DIVISION OF THE AUTOMOTIVE PARTS AND EQUIPMENT MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Automobile Hot Water Heater Manufacturing Product Group of the Accessories Division of the Automotive Parts and Equipment Manufacturing Industry, a supplemental Code to the Basic Code of the Automotive Parts and Equipment Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the Policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved; provided, however, that the provisions of Article IV, paragraph (14), insofar as they prescribe a waiting period between the filing with the Code Authority (i.e. actual receipt by the Code Authority) and the effective date of

revised price lists or revised terms and conditions of sale be and they are hereby stayed pending my further order.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval recommended:

C. E. ADAMS,  
*Division Administrator.*

WASHINGTON, D.C.,  
*June 25, 1934.*



## REPORT TO THE PRESIDENT

The PRESIDENT,  
*The White House.*

SIR: The supplement to the Code of Fair Competition for the Automotive Parts and Equipment Manufacturing Industry covering Fair Trade Practices for the Automobile Hot Water Heater Manufacturing Product Group, a sub-division of the said Industry, was submitted to the Administrator on October 6, 1933 by the Hot Water Heater Institute, representing approximately 80% of the total volume of sales and members of the trade.

The Hearing was conducted in Washington on December 7, 1933 and the supplement was revised during the recess of this Hearing and is submitted in its present form for approval. Every person who requested an appearance, was properly heard in accordance with the statutory and regulatory requirements.

The Product Group is nation-wide in character and has had a large increase in number of establishments in the past few years, as indicated by the figures submitted, showing 2 manufacturing concerns in 1928, as compared with 18 in 1933, with a corresponding increase in the number of persons employed, from 100 in 1928 to 1000 in 1933.

ARTICLE I states the purpose of the Supplementary Code.

ARTICLE II accurately defines specific terms employed in the Supplementary Code. This Product Group is a division of the Automotive Parts and Equipment Manufacturing Industry and the labor provisions of its Basic Code as approved November 8, 1933, are the labor provisions of this Supplementary Code.

ARTICLE III establishes an Administrative Committee, consisting of the Executive Committee of the Institute and one additional member, to be selected at the discretion of the Administrator and one non-voting member, to be appointed by the Administrator. It also provides machinery for obtaining statistics and the administration of this Code.

ARTICLE IV sets forth the fair trade practices of this Supplementary Code, which has been especially designed to effect fair competition in this Product Group of the Industry.

ARTICLE V provides against monopolies and monopolistic practices and provides for the submission of supplementary provisions to this supplementary Code or modifications thereof, and contains the mandatory provisions contained in Section 10 (b) of Title I of the Act, and states the effective date of the Supplementary Code shall mean the tenth day after it has been approved by the President.

### FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Product Group normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Supplementary Code as approved, complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7 and Subsection (b) of Section 10 thereof; and that the applicant Institute is an industrial group, truly representative of the aforesaid Industry; and that said Institute imposes no inequitable restrictions on admission to membership therein.

(d) The Supplementary Code is designed to and will not permit monopolies or monopolistic practices.

(e) The Supplementary Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Supplementary Code.

For these reasons, therefore, I have approved this Supplementary Code.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

JUNE 25, 1934.



# SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE AUTOMOBILE HOT WATER HEATER MANUFACTURING INDUSTRY

## A PRODUCT GROUP OF THE ACCESSORIES DIVISION OF THE AUTOMOTIVE PARTS AND EQUIPMENT MANUFACTURING INDUSTRY

### ARTICLE I—PURPOSE

Pursuant to the provisions of Article II of the Code of Fair Competition for the Automotive Parts and Equipment Manufacturing Industry, duly approved by the President on November 8, 1933, the following provisions covering fair trade practices and the administration thereof for the Automobile Hot Water Heater Manufacturing Product Group of the Accessories Division of the Automotive Parts and Equipment Manufacturing Industry which has been organized as an administrative unit of the Automotive Parts and Equipment Manufacturing Industry, are hereby established as the standards of Fair Competition of said Product Group and shall be binding upon every member thereof.

### ARTICLE II—DEFINITIONS

The term "Product Group" as used herein is defined to mean the production and/or manufacture of automobile hot water heaters and/or their component parts for original equipment or accessories on motor vehicles or any other vehicle, except for street cars and railway cars.

The term "Member" or "Member of the Product Group" as used herein includes, but without limitation, any individual, partnership, association, corporation or other form of enterprise engaged in the production and/or manufacture of the products of the Product Group either as an employer or on his or its own behalf.

The term "Institute" as used herein is defined to mean the Automobile Hot Water Heater Institute, a trade association at present having its headquarters office in Cleveland, Ohio, in which association no inequitable restrictions are placed upon membership.

The term "Basic Code" as used herein, is defined to mean the Code of Fair Competition for the Automotive Parts and Equipment Manufacturing Industry, as approved by the President on November 8, 1933.

The term "Code Authority" as used herein is defined to mean the Code Authority designated in the Code of Fair Competition for the Automotive Parts and Equipment Manufacturing Industry.

### ARTICLE III—ADMINISTRATION

(1) (a) The Executive Committee of the Institute shall constitute the Administrative Committee to assist the Code Authority and the Administrator in the administration of the fair trade practice provisions hereinafter set forth and the provisions of the Basic Code, to which these fair trade practices are a supplement. One additional member may in the discretion of the Administrator be added to represent non-members of the Institute who assent to and comply



with this supplement, such additional member to be selected by such non-members of the Institute by a fair method approved by the Administrator.

(b) In addition to membership as above provided, there may be one additional member, without vote, to be appointed by the Administrator, to serve without expense to the Industry for such term as he may specify.

(2) Members of this product group shall be entitled to participate in and share the benefits of the activities of the Administrative Committee and to participate in the selection of the members thereof as hereinabove set forth, by assenting to and complying with the requirements of the Basic Code and this supplement, and sustaining their reasonable share of the expenses of the administration of this supplement. Such reasonable share of such expenses shall be determined by the Administrative Committee, subject to review by the Code Authority and by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

(3) (a) The Administrative Committee shall, subject to the disapproval of the Code Authority and the Administrator, have the power to adopt by-laws and rules and regulations for its procedure and to obtain from members, directly or through an impartial agency, such information and reports as are required for the administration and enforcement of this supplement; to cooperate with the Administrator in regulating the use of any N.R.A. insignia, to hear and adjust complaints, to initiate, consider and recommend to the Code Authority for transmittal to the Administrator further fair trade practice provisions to govern the members of this Product Group; and to discharge the other powers and duties provided in this supplement.

(b) If the Administrator shall determine that any action of a code authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such code authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

(c) Each trade or industrial association directly or indirectly participating in the selection or activities of the Administrative Committee shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(d) In order that the Administrative Committee shall at all times be truly representative of the Product Group and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Administrative Committee is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Administrative Committee.



(4) All members of this Product Group shall be bound by the provisions of the Basic Code. For this purpose, all provisions of the Basic Code are hereby declared to be a part of this supplement. In case of any conflict between the provisions of this supplement and the provisions of the Basic Code, the provisions of the latter shall govern.

(5) The Administrative Committee shall cause to be formulated accounting methods and principles of cost finding and/or estimating capable of use by all members of the Product Group. After such methods and principles have been formulated and approved by the Administrator, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with such methods and principles.

#### ARTICLE IV—TRADE PRACTICES

In addition to the provisions of Section C of Article VI of the Basic Code, the following described acts shall constitute unfair practices:

(1) *Selling Below Cost.*—(a) To sell the products of this Product Group at prices below cost, determined in the manner provided for in Article III, paragraph 5, of this supplement.

(b) Nothing in this supplement shall prevent a member from selling at below cost as computed in accordance with the provisions of Article III, paragraph 5 hereof, providing that it is necessary to do so to meet a competitive price.

(c) When the Administrative Committee determines that an emergency exists in this Product Group and that the cause thereof is destructive price-cutting such as to render ineffective or seriously endanger the maintenance of the provisions of the Basic Code and/or this supplement, the Administrative Committee may cause to be determined the lowest reasonable cost of any of the products of this Product Group, such determination to be subject to such notice and hearing as the Administrator may require. The Administrator may approve, disapprove, or modify the determination. Thereafter, during the period of the emergency, it shall be an unfair trade practice for any member of the Product Group to sell or offer to sell any products of the Product Group for which the lowest reasonable cost has been determined at such prices or upon such terms or conditions of sale that the buyer will pay less therefor than the lowest reasonable cost of such products.

When it appears that conditions have changed, the Administrative Committee, upon its own initiative or upon the request of any interested party, shall cause the determination to be reviewed.

(2) *Commercial Bribery.*—To give or permit to be given, or offer to give, directly or indirectly, money or anything of value, to any purchaser or prospective purchaser or to any officer, employee, agent, or representative of such purchaser for the purpose of influencing their employers or principals in the purchase of any commodity, with or without the knowledge of their employers or principals. This paragraph shall not be construed to prohibit free and general distribution of articles commonly used for advertising except insofar as such articles are actually used for commercial bribery as herein defined.



(3) *Inaccurate Labeling*.—To list, brand, mark or pack any products of the Product Group in any manner which is intended to or does deceive or mislead purchasers in some material particular or the failure to brand such products for the purpose or with the effect of misleading or deceiving purchasers in some material particular with respect to such products (including but without limitation their brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material content, or preparation).

(4) *Imitation of Trade-Marks*.—To imitate or copy a competitor's trade-mark, marking, trade name, or exclusive and established design which identifies the maker or vendor of the product, with the purpose or effect of misleading or deceiving any purchaser or prospective purchaser.

(5) *Inaccurate Advertising*.—To publish advertising (whether printed, radio, display, or of any other nature), which is misleading or inaccurate in any material particular, or to misrepresent in any way any product (including but without limitation its use, trade-mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services or the nature or form of the business conducted.

(6) *Price Guarantee*.—To guarantee Product Group products against advance or decline in price.

(7) *Guaranty*.—To give any guaranty or warranty on any product of the Product Group except against defects in workmanship or material.

(8) *Return of Products*.—The Administrative Committee may formulate rules and regulations to govern the return of any products of the Product Group for credit or exchange, and recommend the same to Code Authority and the Administrator for approval. Upon approval by the Code Authority and the Administrator, after such hearing as the Administrator may prescribe, such rules and regulations shall become binding as a part of this supplement.

(9) *Consignments*.—To ship stocks of the products of this Product Group to distributors, contractors, manufacturers' agents, and/or others on consignment or under the "Floating Credit or Ledger Balance" plan. All existing agreements regarding such shipments shall be terminated within 60 days from the date of approval of this supplement, with the exception of existing contracts which, by their terms, cannot be terminated by that date, subject to the condition that copies of such contracts shall be filed with the Administrative Committee.

If any application of this Section should work any unjust hardship upon any member of the Product Group or upon any customer, such member or customer may appeal to the Administrator, who shall have power to grant such relief as justice may require.

(10) *Replacing Competitors' Stock*.—To liquidate, purchase, or accept a competitor's product from any buyer.

(11) *Interference with Another's Contracts*.—To induce or attempt to induce the breach of an existing contract between a competitor and his customer or source of supply; or to interfere with or obstruct the performance of such contractual duties or services.

(12) *Coercion*.—To require that the purchase of any goods be a prerequisite to the purchase of any Product Group goods.



(13) *Discrimination*.—To prevent unfair methods of competition the Administrative Committee shall recommend to the Code Authority and to the Administrator a fair and equitable classification of customers based upon service rendered. Upon approval by the Code Authority and the Administrator, after such hearing as the Administrator may prescribe, such classification shall be adhered to by all members of the Product Group. No member of the Product Group shall sell his products to any customer at net realized prices lower than are offered to all other customers of the same classification for the same quantity, grade, quality, or style, provided, however, that due allowance may be made for differences in transportation costs.

If any application of the foregoing classifications should work unjust hardship upon any member of the Product Group or any customer, such member of the Product Group or customer may appeal to the Administrative Committee and/or the Code Authority, which shall have power to make or require such reclassification as justice demands.

(14) *Filing of Price Lists*.—Since it has been the general recognized practice of the Product Group to sell its products on the basis of printed net price lists, or price lists with discount sheets and fixed terms of payment which are distributed to the trade, each member shall file with the Administrative Committee a net price list or a price list and discount sheet as the case may be, individually prepared by him, showing his current net prices, or price list and discounts, as the case may be, and terms of payment to the respective classes of customers established pursuant to paragraph (13) of this Article IV, and the Administrative Committee shall immediately send copies thereof to all other members. The Administrative Committee shall likewise make such filed prices available for inspection by customers or prospective customers of the classification or classifications affected. Revised schedules may be filed from time to time thereafter with the Administrative Committee by any member, to become effective upon a date specified by such member, which date shall be 10 days after the filing of such revised prices with the Administrative Committee and copies thereof with notice of the effective date specified shall be immediately sent to all other members who thereupon may file, if they so desire, revisions of their price lists and/or discount sheets, which, if filed previous to such effective date, may take effect upon the date when the revised price list or discount sheet first filed shall go into effect. The Administrative Committee shall likewise make such revised filed prices available for inspection for customers or prospective customers of the classification or classifications affected.

No member shall sell or offer to sell any product at prices lower or discounts greater or on more favorable terms of payment than the approved schedule of such member which is in effect and on file with the Administrative Committee as above provided.<sup>1</sup>

(15) *Volume Allowance*.—No member of the Product Group shall extend to any customer any rebate or bonus based upon the total volume of purchases of such customer over a period of time, except as follows:

<sup>1</sup> See paragraph 2 of order approving this Code.



Each member of the Product Group shall report to the Administrative Committee a complete schedule of rebates or bonuses for volume allowed by him or it during the year 1933. From such reports the Administrative Committee shall select the highest rebate and bonus rates and terms which represent customary selling practice in the Product Group in said year, and shall prepare a composite schedule of rebates and bonuses which embodies said selected rebate and bonus rates and terms. Said composite schedule shall be reported to the Code Authority and the Administrator together with true copies of the individual schedules from which it was derived. After approval thereof by the Code Authority and the Administrator, no member of the Product Group shall extend to any customers any rebate or bonus at a rate higher or on terms more favorable than are provided in said composite schedule.

(16) *Branch and Warehouse Stocks*.—To make sales from Warehouse stocks other than at the members own factory unless the following conditions prevail:

(a) Members shall make a reasonable service charge for services rendered, based on the lowest reasonable cost of members maintaining such Branch or Warehouse stocks, the determination of such charge to be subject to the approval of the Administrator. No such charge need be made on sales from Branch or Warehouse stocks located in the same city or trading area as a competitor factory.

(b) In the case of any sale or shipment from stocks warehoused with a customer, the member, in billing for such sales and making collections thereon, shall not employ the services or facilities of said customer with whom such stocks are warehoused.

(17) *Freight Allowance*.—The Administrative Committee shall proceed immediately to prepare a schedule of freight allowances and submit same for the approval of the Code Authority and the Administrator within ninety days from the effective date. Upon such approval of such schedule no member shall make any freight allowances to customers in excess of the provisions of such schedule.

If any application of this paragraph should work any unjust hardship upon any member of the Product Group or upon any customer, such member or customer may appeal to the Code Authority and the Administrator, who shall have power to grant such relief as justice may require.

(18) *Export*.—The provisions of this supplement with regard to prices, discounts, deductions, allowances, extras, or methods and/or terms of sale apply to direct export sales and to sales in course of export (i.e., sales destined ultimately for export), and to sales of materials used in the manufacture of products for export, except as may otherwise be provided by the Administrative Committee, subject to the approval of the Administrator.

#### ARTICLE V—GENERAL

(1) No provision of this supplement shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

(2) Such of the provisions of this supplement as are not required to be included herein by the Act, may, with the approval of the Administrator, be modified or eliminated on the proposal by the



Product Group or any member thereof if it appear that the public needs are not being served thereby and as changes in circumstances or experience may indicate.

(3) It is contemplated that from time to time supplementary provisions to this supplement or modifications thereof will be submitted by the Administrative Committee through the Code Authority for approval to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the purposes of the Act. Upon approval by the Administrator after such notice and hearing as he may prescribe, such supplementary provisions or modifications shall become binding as a part of this supplement.

(4) As required by Section 10 (b) of Title I of the Act, the following provision is contained in this supplement: The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under said Title.

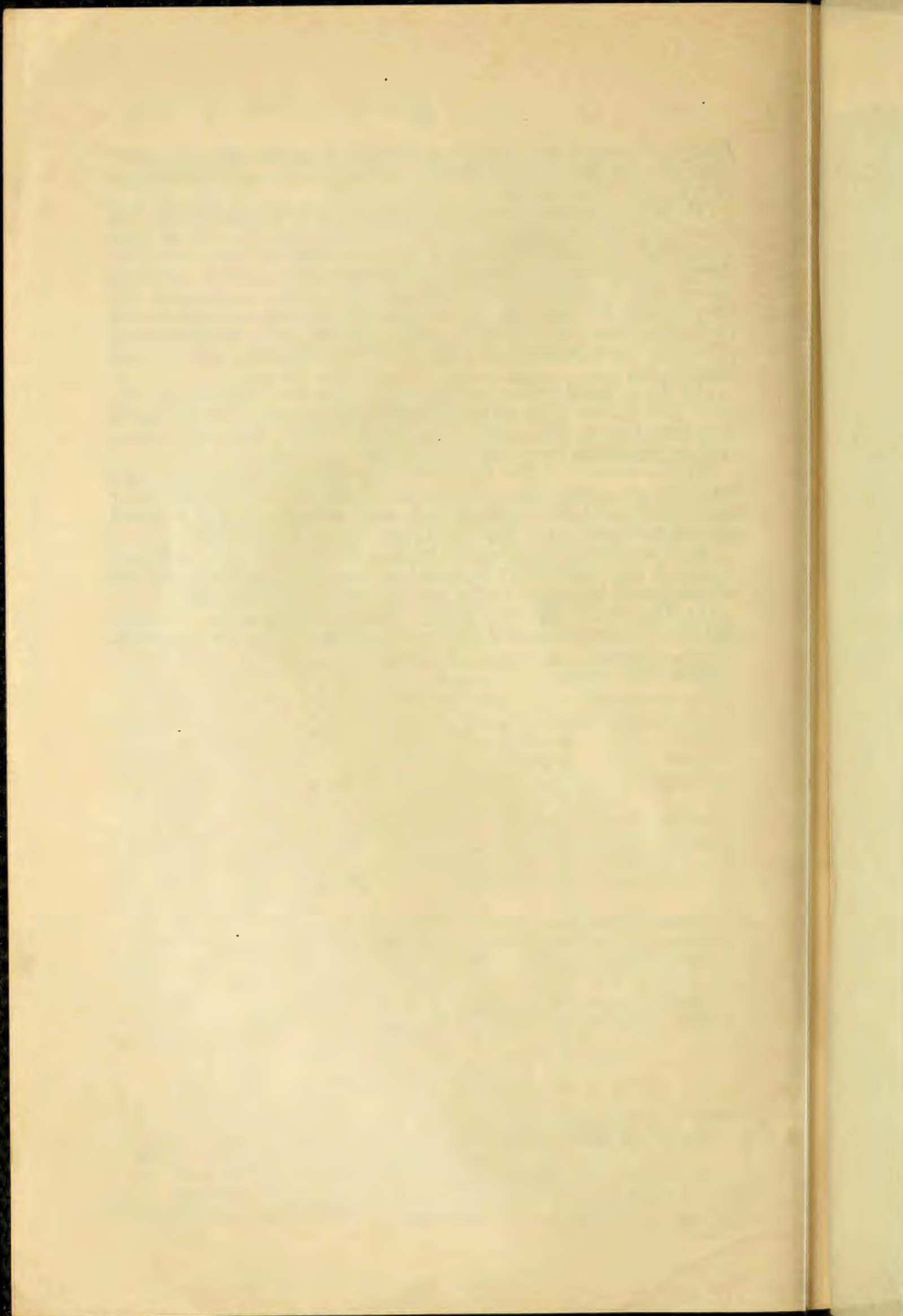
(5) No member of this Product Group shall be held to have consented to any modification of this supplement or to any provision or interpretation of the National Industrial Recovery Act if declared unconstitutional by the Supreme Court of the United States.

(6) Violation by any member of this Product Group of any provision of this supplement is an act of unfair competition, and the offender shall be subject to the penalties imposed by the Act.

(7) The term "Effective Date" as used herein means the 10th day after this supplement shall have been approved by the President.

Approved Code No. 105—Supplement No. 1.  
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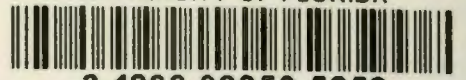








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